

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-358

May 28, 2003

PUBLIC UTILITIES COMMISSION
Investigation of Compliance of Verizon
Maine with Amended 35-A M.R.S.A.
§ 7101-B

NOTICE OF INVESTIGATION;
ORDER TO FILE ACCESS
RATE REDUCTION PLAN

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

By this Notice, we commence an investigation into the timing of Verizon Maine's compliance with the provisions of amended 35-A M.R.S.A. § 7101-B. We order Verizon to file a plan for compliance.

II. DISCUSSION

On May 1, 2003, Verizon Maine (Verizon or the Company) submitted to the Commission a letter signed by Edward Dinan, President – Maine stating its intention to postpone filing revised tariffs that would reduce the Company's intrastate access rates to the current level of its interstate access rates. Verizon stated that it was not filing a proposed reduction at this time because of the imminent enactment of L.D. 265, An Act to Promote Affordable Telephone Service for Business and Residential Customers in Rural Maine. On May 2, 2003, the Governor signed L.D. 265 into law as P.L. 2003, ch. 101. That chapter amends 35-A M.R.S.A. § 7101-B.

Verizon's letter states that its proposed delay will enable the state's Independent Telephone Companies to "catch up" to the intrastate reductions Verizon Maine has already achieved, so that customers statewide will be treated with parity and fairness regardless of which local exchange carrier (LEC) provides their local telephone service.

The new statute modifies 35-A M.R.S.A. § 7101-B by requiring that on or before May 31, 2005, local exchange carriers must reduce their intrastate access rates to the level of interstate access rates that were in effect on January 1, 2003. The amendment revises the former policy in the statute, namely, that every two years (which would include May 30, 2003) local exchange carriers must establish intrastate access rates that are "less than or equal to" the carrier's interstate access rates. Subsection 2(A) of amended section 7101-B appears to give the Commission discretion to order that a carrier's intrastate rates be equal to its interstate rates prior to May 31, 2005 ("by May 31, 2005, the Commission shall ensure..."). However, that discretion is limited by subsection 2(B). Under that provision, if the price of local service (defined as local service rates or "universal service collections") would increase by more than 50 percent as a result of lowering access rates, the Commission must phase in intrastate access reductions "so as to produce as smooth a transition as possible" and keep any local rate increases "to no more than 50% for each stepped reduction in intrastate access rates."

In 1999 and 2001, Verizon reduced its intrastate access rates to comply with the requirements of the former Subsection 2 of Section 7101-B, which required parity between the intrastate and interstate access rates of all LECS.¹ At each of these points of time, we permitted Verizon to increase its basic exchange rates in order to offset at least part of the revenue loss caused by the access reductions. With the access reductions that Verizon would have filed for effect on May 31, 2003, the Company also could at least ask for a local rate increase to offset all or part of the access revenue loss. We understand that the magnitude of any basic rate increase needed to fully offset the access loss would be relatively small. It certainly would be well below the 50% threshold that, under the amended statute, would require a phase in of access rates and local rate increases.

In order to implement subsection (2)(A) of amended Section 7101-B, we will require Verizon to file a plan that sets forth a proposed schedule for the required access rate reductions.² Verizon must also state whether it intends to seek a local rate increase (or increases if it proposes to reach access parity in more than a single step) to offset the access revenue losses. If so, the Company must state the amount of each proposed increase to local rates and provide justification for any of these proposed increases.³ Verizon must make this filing within 30 days of the date of this Order.

¹ The Company also reduced access rates by 20% in 1997 pursuant to a requirement contained in Chapter 280, § 8(I). On May 30, 1998, pursuant to a stipulation in Docket No. 94-123, the Company reduced its intrastate access rates by 40% of the then-current difference between its interstate and intrastate access rates.

² On April 16, 2003, the Utilities and Energy Committee of the Legislature sent a letter to the Commission stating:

The amendment gives discretion to the Commission to determine the schedule for achieving this result before May 2005. The Committee expects that, in exercising this discretion, the Commission shall commence proceedings as soon as possible to develop appropriate phase-in schedules which ensure fairness to all customers without causing rate shock.

³ The June 25, 2001 order issued in the AFOR case (vacated by the Law Court for other reasons), discussed “whether and how Verizon should be allowed to recover for further access rate reductions (approximately \$2-3 million) that Verizon will have to make in May of 2003.” We stated: “We will not decide at this time whether these access rate reductions, which are considerably smaller than the 2001 reductions, should constitute an exogenous change and should require an increase to basic rates. Like the 2001 reductions, they are required by law, but their size may raise questions about whether they should be considered exogenous and subject to a pass-through in rates.” *Maine Public Utilities Commission, Investigation into Verizon Maine’s Alternative Form of Regulation*, Order (June 25, 2001) at 17-18.

Accordingly, we

ORDER

Verizon Maine, within thirty days of the date of this Order, to file a plan that describes the timing and level of access rate reductions that it proposes to make in order to bring the Company's access rates into compliance with the provisions of 35-A M.R.S.A. § 7101-B.

Dated at Augusta, Maine, this 28th day of May, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond